



UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION

CUONG VIET NGUYEN,

Petitioner,

v.

TIM VIRGA, Warden CSP-Sac.,

Respondent.

Case No. SACV 12-00861 JAK (AN)

ORDER ACCEPTING REPORT  
AND RECOMMENDATION OF THE  
UNITED STATES MAGISTRATE JUDGE

Pursuant to 28 U.S.C. § 636, the Court has reviewed the file, including the Magistrate Judge's Report and Recommendation ("R&R") and Petitioner's Objection [6]. Further, the Court has completed a *de novo* review of those portions of the R&R to which Petitioner has objected.

IT IS ORDERED that:

1. Petitioner's motion to stay this action and hold his Petition in abeyance is denied for the reasons in the R&R and because he has failed to show good cause. *Rhines v. Weber*, 544 U.S. 269, 277, 125 S. Ct. 1528 (1995). While a petitioner's "reasonable confusion about whether a state filing would be timely may constitute 'good cause' for him to file in federal court" while the state petition exhausting his claims is still pending, *Pace v. DiGuglielmo*, 544 U.S. 408, 416, 125 S. Ct. 1807

1 (2005), this Court finds that, what Petitioner characterizes in his motion to stay as an  
2 “absence in California of a predictable standard against which the timeliness of state  
3 habeas petitions will be judged” (Mot. at 3:13-15), does not constitute grounds for  
4 reasonable confusion necessitating a “protective” petition.

5 Accordingly, the Objection is overruled in its entirety and the Court accepts the  
6 findings and recommendation of the R&R.

7 2. Judgment shall be entered dismissing this action without prejudice.

8 3. Any and all other pending motions are denied as moot and terminated.

9 IT IS FURTHER ORDERED that the clerk of the Court shall serve a copy of this  
10 Order and the Judgment on all counsel or parties of record.

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12  
13 Dated: July 19, 2012



14 JOHN A. KRONSTADT  
UNITED STATES DISTRICT JUDGE